

Docket No. 20518/44-M1111 CIP-1

REMARKS

REJECTION UNDER 35U.S.C. §102 (b)  
IN RESPECT OF U.S. PATENT NO. 5,569,182

The Examiner has rejected Claims 1-9, under 35U.S.C. §102 (b) as being anticipated by U.S. Patent No. 5,569, 182 to Twardowski et al. (herein the '182 patent). Applicant respectfully traverses this rejection for the following reasons.

The Examiner has indicated that the '182 patent discloses a catheter that includes all the limitations as recited in Claim 1. In respect to this, the Examiner has directed attention to Figure 6, and the respective portions, of the '182 patent.

Further, when describing the relevance of the '182 patent, the Examiner included a statement that the catheter of the '182 patent has an extension that extends in a spiral configuration. As a basis for this conclusion, the Examiner has stated that a spiral configuration is found in the '182 patent, "because the extension winds around the center of the catheter."

Applicants contends that the '182 patent does not disclose a spiral configuration as alleged by the Examiner, and that the basis utilized by the Examiner in reaching his conclusion is erroneous.

A correct definition of a spiral is, "a curve on a plane that winds around a fixed center point at a continuously increasing or decreasing distance from the point." A spiral may also be defined as a three dimensional curve that turns around an axis at a constant or continuously varying distance while moving parallel to the axis.

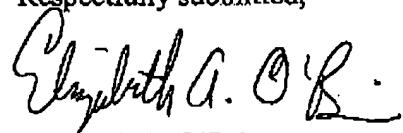
With the above correct definition of a spiral in mind, the '182 patent, particularly Figure 6, does not disclose a spiral configuration. The reasoning for reaching this conclusion is as follows. The resultant geometry from winding a point around the center of a catheter, within a normal plane, results in a circle. Figure 6 of the '182 patent clearly depicts a circular geometry that resides in one plane. The catheter septum extends normal to the plane. Figure 6 of the '182 patent does not depict a winding around the center of the catheter that moves longitudinally with respect to the catheter axis. A longitudinal movement would result in a spiral configuration that no longer is restrained to a normal plane. It is noteworthy that having a spiral configuration, as presently claimed, facilitates fluid flow and prevents recirculation between lumens.

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With regard to Claims 1-19 of the application, Claims 1, 8, and 13 are independent. All of Claims 1, 8, and 13, require an extension that extends in a spiral configuration, and as a result, are patentably distinguishable from the '182 patent. All of the remaining Claims 2-7, 9-12, and 14-19, are dependent claims, and are also patentably distinguishable from the '182 patent, for the same reasons.

Applicant believes the application is in condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the rejection of Claims 1-19, under 35 U.S.C.102 (b). Applicant submits that Claims 1-19 are patentable, and respectfully request the Examiner to pass the application to issue.

Respectfully submitted,



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